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ABSTRACT

This pamphlet explains what a patent is, discusses the importance of patents, and gives basic steps to take in obtaining a patent. A section on marketing and developing inventions is also included along with answers to questions frequently asked concerning patents and inventions. (MN)

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Patents & Inventions: An Information Aid

FOR INVENTORS

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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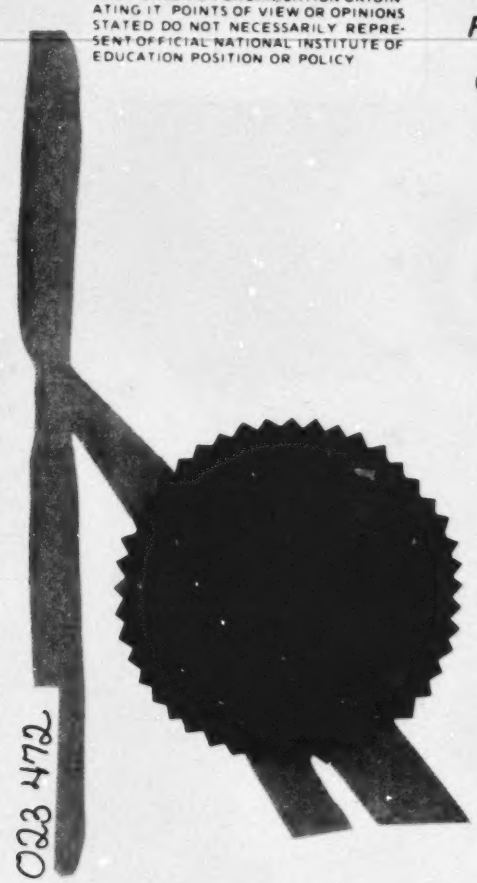
GENERAL INFORMATION CONCERNING PATENTS



U.S. DEPARTMENT OF COMMERCE

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Secretary

PATENT AND TRADEMARK OFFICE
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Commissioner

Revised August 1977

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Contents

	Page
INTRODUCTION	1
THE IMPORTANCE OF PATENTS	1
THE INDEPENDENT INVENTOR	2
SUMMARY OF BASIC STEPS:	
First Step— Make Certain It Is Practical	3
Second Step—Witnesses, Records and Diligence	3
Third Step— The Search	4
Fourth Step—Studying Patents Found in the Search	6
Fifth Step— Preparing the Patent Application	7
Sixth Step— Patent and Trademark Office Prosecution	9
MARKETING AND DEVELOPING THE INVENTION	11
ANSWERS TO QUESTIONS FREQUENTLY ASKED	13

THE PURPOSE of this pamphlet is to help inventors decide whether to apply for patents, obtain patent protection and promote their inventions.

For more detailed information see:

General Information Concerning Patents, 75 cents.
37 Code of Federal Regulations, $2.20.
Patent Laws, $2.10.
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Introduction

What Is a Patent?

A patent is a grant by the United States to an inventor of the right to exclude others for a limited time from making, using, or selling his invention in this country. It is a printed document in which the invention is fully disclosed and the rights of the inventor are defined. When an inventor secures a patent he has the opportunity to profit by manufacture, sale, or use of the invention in a protected market or by charging others for making or using it. Rights for patents granted for invention of new and useful processes, machines, manufactures, compositions of matter or plants, run for 17 years from the date when the patent is granted. A patent for a new, original and ornamental design for an article of manufacture may run for 3½, 7, or 14 years, as desired by the patentee.

The Importance of Patents

It is natural to ask why the Government makes this offer of protection under the patent law. The answer is in the Constitution itself, which provides that Congress may secure this right to inventors *in order to promote the progress of the useful arts.* The public benefits from this system for three reasons:

First, by offering patent protection, *it encourages the inventor to make the invention.*

Second, if the inventor succeeds with the help of the patent in developing and marketing the invention, *the public is given the opportunity to use it.*

Third, since the inventor must describe the invention in the patent, and copies of the patent may be purchased by the public for 50 cents each, *the knowledge of the invention is made available to everyone.*

If it were not for the patent law many inventors would be unable to develop their inventions and would abandon their ideas instead of going forward with them, and many others would keep them secret as long as they could, *instead of publishing them in patents which stimulate others to make still further inventions.*

The Independent Inventor

A great deal of the progress of the United States has resulted from inventions made by inventors working independently of any large organization. It is believed that such people will make many important inventions in the future, as they have in the past. These inventors are often puzzled by such problems as whether to seek patent protection and what steps to take to obtain the benefit of the patent law. In the following discussion we will therefore assume that you have made an invention and that you need a practical guide to help you solve these problems.

You should seek professional advice at a very early stage in connection with any invention, and this pamphlet is provided as an outline of the basic facts you should know in cooperating with your patent practitioner.[1] It cannot possibly serve as a substitute for the detailed professional advice you will need in relation to your particular problems.

Summary of Basic Steps

The questions uppermost in the minds of most inventors are these:

1. Should I try to obtain a patent?
2. If I decide to try to obtain a patent, what steps can I take to secure the best possible patent protection?
3. What steps can I take to improve my chances of developing and marketing my invention successfully?

It is important that you realize there is no way to get assurance in advance that you will be granted a patent, or that you will be able to profit if you obtain one. However, you may improve your chances greatly by following the suggestions made in this pamphlet if your invention is useful and new. If on the other hand the features you consider important are not new or are not useful, these suggestions will help you to discover this early enough to avoid needless expense. The steps you should take are these:

1. Study your invention in relation to other available ways of doing the job, and decide whether the invention provides advantages that make it salable.

[1] The word "practitioner" is used in this pamphlet to refer to persons who are registered to practice in the Patent and Trademark Office by preparing and prosecuting patent applications, regardless of whether these persons are patent attorneys (all except a few of whom are lawyers) or patent agents (nonlawyers).

2. Get a trustworthy friend to sign his name as witness on a dated drawing or description of the invention, and keep careful records of the steps you take and their dates. Note also, Disclosure Document Program Offered by the Patent and Trademark Office. Page 4.

3. Make a search to find the most closely related prior patents. This can be done for you by any patent practitioner.

4. Compare the patents found in the search with your invention. Your decision whether to seek patent protection should be based on your own comparison of these patents with the features of your invention which you believe to be new and valuable, and on the advice of your practitioner.

5. If you find that your invention includes valuable features not shown in the patents found in the search, instruct your practitioner to prepare an application for patent and to file it in the Patent and Trademark Office. Help him prepare a good application by giving him all the useful information you can provide.

6. Keep in close touch with the progress of your application in the Patent and Trademark Office. Tell your practitioner promptly of any changes you may make in your invention and of the steps you take to develop and market it. Study the patents which the Patent and Trademark Office may cite against your application. Help your practitioner to overcome rejections by pointing out in what way your invention differs from those described in earlier patents.

Each of these points is explained in some detail in the following sections.

FIRST STEP

Make Certain It is Practical

Many persons believe they can profit from their inventions merely by patenting them. This is a mistake. No one can profit from a patent unless it covers some feature which provides an improvement for which people are willing to pay. You should therefore try to make sure that your invention will provide this kind of advantage before you spend money in trying to patent it.

SECOND STEP

Witnesses, Records and Diligence

Importance of Witnesses. It may become important for you later to be able to prove the date when you first conceived the idea of your

invention. If you made a written description or drawings or built and tested it, you may also need to prove these facts and dates, and your diligence in completing and testing it. You will not be able to prove any of these things to the satisfaction of the Patent and Trademark Office or a United States court unless your own testimony is supported by one or more other persons who have knowledge of these facts from first-hand observation, so that at least one other person can testify in your behalf as your corroborating witness.

Make and Keep Good Records. You should prepare a record in the form of a sketch or drawing or written description promptly after you first get the idea of your invention, and ask one or more of your trustworthy friends to read and understand and sign and date this record as witnesses. You should also keep a carefully dated record of other steps you take in working on the invention, and get one or more friends to witness these steps and sign their names as witnesses to your records. You should keep correspondence about the invention, sales slips of materials you buy for use in working on it, and any models or drawings, so that these will be on hand if needed to help you prove the facts and dates of the steps you have taken.

Letter to Yourself Will Not Protect You. Many persons believe that they can protect their inventions against later inventors merely by mailing to themselves a registered letter describing the invention. This is not true. Your priority right against anyone else who makes the same invention independently cannot be sustained except by testimony of someone else who corroborates your own testimony as to all important facts, such as conception of the invention, diligence, and the success of any tests you may have made. It is therefore important that some trustworthy friend witness these things. The invention will not be full protected until patented.

Disclosure Document Program. The Patent and Trademark Office provides a service of storing, for two years, papers disclosing an invention. This service does not diminish the value of the conventional witnessed and notorized records, but does provide a creditable form of evidence. A free brochure detailing the procedures of this program is available on request. Address: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

THIRD STEP

The Search

Why the Search Is Important. You cannot obtain a valid patent if your invention is anticipated by any earlier printed publication or

patent in any country, or by commercial use in the United States. If you decide that your invention is valuable enough to patent, your next step should be to make a careful search through patents already issued to find out if it is new as compared to these patents. This is important for a number of reasons:

First, making a search involves less expense than trying to obtain a patent. If you learn through the search that the invention cannot be patented you will save the cost of preparing and filing a patent application.

Second, even if none of the earlier patents shows all the details of your invention, they may show the only *important* features or they may show other ways of doing the job that are as good or better than yours. If this is the case, you will not want to try to get patent protection on an invention that cannot be commercialized.

Third, even if nothing is found in the search which comes very close to your invention, you will still find it helpful to consider the closest patents of others in taking steps to obtain a strong patent on your own invention.

Search in Patent and Trademark Office Search Room. The search should be made in the Search Room of the Patent and Trademark Office in Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia. You may make this search yourself if you wish; the staff of the Patent and Trademark Office Search Room will assist you in deciding which classes and subclasses should be searched but they cannot make the search for you. Many inventors have done this and have found it helpful and stimulating. With somewhat more difficulty, a search can be made in any one of 22 libraries located throughout the country which keep a numerical file of United States Patents. The book, "General Information Concerning Patents" contains a list of these libraries. However, making a proper search requires both skill and experience. Most inventors hire practitioners to make their searches, both for this reason and in order to save the time and expense of a trip to the Patent and Trademark Office. Patent practitioners having offices in any part of the country can make the searches, either personally on one of their trips to the Patent and Trademark Office, or through an associate located near the Patent and Trademark Office.

Get Help From Patent and Trademark Office Roster. The Patent and Trademark Office has a roster of all registered practitioners who are available to prepare and prosecute patent applications for inventors and you may employ someone from this roster to make your search. You can buy a copy of this roster from the Superintend-

ent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (see the list of publications in the front of this pamphlet for price), or see one at any of the district office of the U.S. Department of Commerce or the Small Business Administration, at your State Department of Commerce and Industry, or at a public library designated as a depository for Government publications. The Patent and Trademark Office can send a list of those practitioners with offices in your own region to you without charge. Address your request to Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Your Searcher Will Furnish Estimate. The search to determine whether your invention is new is called a *Preliminary Search*, as it is preliminary to the possible preparation and filing of a patent application. You may ask the practitioner you have chosen to furnish an advance estimate of the cost of making such a search, and also an estimate of his further fees in case you should later decide to file a patent application. The search fee will depend somewhat on whether you decide to have the search cover both the United States patents and readily available foreign patents, or only the United States patents.

Explain Invention to Searcher. You should explain to your searcher the features which you believe are new and important, and how they work to provide improved results. This explanation may be made through drawings or sketches, models, written description, oral discussion, or a combination of these.

Keep Correspondence for Evidence. Correspondence about the search should be kept in a safe place, as it may be needed later to prove dates and other facts about the invention.

FOURTH STEP

Studying Patents Found in the Search

Study Search Results. Your decision whether to try to get a patent is primarily a business decision. It should be based on your own consideration of the practical advantages of your invention over the closest patents found in the search. Your searcher will send you copies of these patents. If any of them is exactly like your invention you will have no chance to obtain a patent. On the other hand one or more patents may describe inventions which are intended for the some purpose as yours, but are different in various ways. You should study these and decide whether it is worthwhile to go ahead.

Are Your Important Features New? If the features which make your invention different from prior inventions provide important advantages, you should discuss the situation with your practitioner to determine whether, in his judgment, there is a fair chance for you to obtain a patent covering these features.

No Patent Can Cover Old Features. There is one point which you should especially bear in mind. You cannot obtain a patent which will prevent others from using inventions shown in prior patents, *and any patent which you may be able to obtain will cover features which make your invention different from these prior patents.*

FIFTH STEP

Preparing the Patent Application

Patent Application Includes Written Description. If you decide to try to get a patent, it will be necessary for you to send to the Patent and Trademark Office a formal written application describing your invention. This is called *Filing* the patent application.

Employ Registered Attorney or Agent. Every inventor has the right to prepare his own patent application and *Prosecute*[2] it in the Patent and Trademark Office without the help of any attorney or agent. However, the task of prosecuting a patent application to obtain strong protection requires a great deal of professional knowledge and skill based on training and experience. An inventor who prepares and prosecutes his own application is therefore almost certain to endanger his chances of obtaining a good patent, unless he has a great deal of experience in these matters. The following discussion of Patent and Trademark Office procedure is therefore provided to help you cooperate with a registered patent practitioner and not with the thought that you should prepare and prosecute your own application.

Only Registered Persons May Legally Represent You. If your search has been made by a registered patent attorney or agent, you will probably want to have this same person prepare and prosecute your patent application. In any case, in selecting someone for this purpose you should realize that only registered persons are permitted to represent you. It is illegal for anyone to hold himself out as a practitioner qualified to prepare and prosecute patent applica-

[2]The word "Prosecute" means the writing of letters and legal amendments to the Patent and Trademark Office to convince the Patent and Trademark Office examiner that a patent should be granted, and to fix the legal scope of the patent protection.

tions unless he is so registered before the Patent & Trademark Office. All of the ottorneys and agents available to represent private clients and who have been examined by the Patent and Trademark Office and found qualified are listed in the roster. This roster is for your protection against unqualified or unscrupulous persons claiming competence to represent you.

An Application Consists of These Parts. The patent application will include an oath or declaration, a description of the invention, called the *Specification*, which ends with definitions of the invention called *Claims* and filing fee. There will also be a drawing if the invention is one that can be illustrated. If a practitioner is used, a power of attorney is also included.

Importance of Care. A great deal depends upon the care and skill with which the specification and claims are written. If you fail to supply your practitioner with enough information to help him write a good specification and claims, the patent which you obtain may be so restricted that it has little value, or you may even lose your right to obtain a patent. While your practitioner will doubtless ask you questions to bring out the important points, it should be helpful to you in answering these questions to understand some of the basic principles of patent law and Patent and Trademark Office practice.

Patent Specification Must Describe Invention. The patent law requires that the patent specification must provide a description of the invention which is sufficiently full and clear to teach a person skilled in the field of the invention to make and use it. The patent must also contain claims that distinguish your invention from others and your most important problem will be to secure the grant of claims which cover your invention fully and give your patent the best chance for commercial success. You should read the application carefully before signing it.

Do Not Limit Patent Unnecessarily. If the claims of your patent are limited to unimportant incidental features, other persons may be able to use the important features without paying you merely by making simple changes. If your invention can be carried out in different ways, your practitioner will try to make this clear in the patent specification. He will try to claim the invention in language broad enough to include these different ways if this is necessary for your protection. You should therefore be careful to explain to him any other ways you may have in mind for obtaining the principal advantages of your invention, and not merely the best way.

Critical Importance of Breadth of Claims. The claims are the most important part of the patent application. They define the boundaries of your patent rights and fix the amount of protection granted to you by the patent. Even though you may have made a broad invention, it will not be protected unless your claims are also broad.

Claims Must Distinguish Invention. You will understand from the previous discussion that your claims cannot properly be allowed if their language is so broad that they describe earlier inventions. On the other hand, one or more of your claims should be written in language which is general enough to provide the proper legal protection. The difficult job that your practitioner has to accomplish is first to find the features which distinguish your invention from earlier ones, and then to prepare claims which define it in language which is broad enough to provide proper protection while still including one or another of the features which distinguish the invention from earlier ones.

Ask Practitioner to Send You Office Actions. As discussed in the next section, your patent application will be studied by a Patent and Trademark Office examiner. There will usually be an exchange of letters between your practitioner and the Patent and Trademark Office to determine whether a patent shall be granted, and the claims it shall contain. To make sure that you are informed about these developments, you should establish an understanding with your practitioner that he will furnish you promptly a copy of each letter he receives from the Patent and Trademark Office and of each patent discussed by the Patent and Trademark Office in these letters. Ask him also to send you a copy of each letter of amendment or argument which he may file in response to these Patent and Trademark Office letters. Your practitioner can obtain for you copies of the United States patents cited by the examiner at a cost of 50 cents each. You can be helpful to your practitioner by reading these patents and discussing them with him.

SIXTH STEP

Patent and Trademark Office Prosecution

The Patent and Trademark Office Examiner's Task. Every application is examined by a Patent and Trademark Office examiner who will first read your application to satisfy himself that the invention has been properly described and will then read the claims and

make a search among prior patents and printed publications to find those most closely related to the features covered in these claims. This search by the examiner is similar to the preliminary search already made for you, but the examiner's search will be more far-reaching in most cases.

Patent and Trademark Office Letter of Rejection. In presenting claims broad enough to protect you fully, your practitioner may write some of them in a form so broad that the examiner will hold them to be unpatentable. The examiner will make an *Office Action* in the form of a letter in which he will reject your claims if he finds earlier patents or publications which show the features you claim. He will also reject them even though they include some new feature, if he decides that the new feature would be obvious to a person having skill in the field of the invention. The examiner almost always finds one or more earlier patents or publications close enough to some of your claims to cause him to reject them; some claims may be rejected while others may be held to be allowable. The action of the Patent and Trademark Office in rejecting claims that cannot be validly patented serves as a guide to practitioners in their efforts to secure for their clients strong and valid patents.

Avoiding or Overcoming Rejection. Every Patent and Trademark Office action must be answered within the time period required by the examiner to avoid abandonment. This answer is in the form of a letter addressed to the Commissioner of Patents and Trademarks. This letter may direct him to cancel some of the original claims, and to change the language of other claims. Such a letter is called an *Amendment*. In submitting such an amendment, your practitioner will try to avoid adding limitations which will restrict your patent unreasonably. In any case the letter must point out the reasons for believing that a patent should be granted.

Help Your Practitioner in Prosecution. While your practitioner will make a careful study of patents cited in the Office action in preparing your amendment, it will be helpful to him if you also study these patents. The information you will obtain in this way will help you to decide whether you should abandon your patent application and avoid further expense or whether you should continue with your efforts. If you decide to continue you may, by your own study and knowledge of the practical details, be able to point out features and advantages which will help your practioner in preparing the amendment.

Tell Practitioner Promptly About Changes. It is important that you tell your practitioner promptly of any changes in your invention which you have made or plan to make. The Patent and Trademark Office rules do not permit an application to be changed by adding new matter such as improvements, after the application has been filed in the Patent and Trademark Office. However, it is important that you keep your practitioner informed so that he can do everything possible to secure full coverage and properly protect your interests. If he finds he cannot fully protect your improvements in the application already on file in the Patent and Trademark Office, he may recommend that you file a new application to obtain full protection.

Reconsideration by Examiner. After the examiner receives your amendment, he will again study the application and make a second office action. This may be a notice of allowance, telling you that you will be granted a patent, a rejection of all claims, or a rejection of some claims while allowing others. This exchange of office actions and amendments may be repeated until the application is allowed by the examiner, or until the examiner states that the rejection is *final.*

Where To Get Further Information. The prosecution of your application may include an appeal from the decision of the examiner to the Board of Appeals of the Patent and Trademark Office, or other procedures not discussed in this pamphlet. *You may obtain information on these procedures from the other Patent and Trademark Office publications listed in the front of this pamphlet.* The Patent and Trademark Office cannot act as your individual counsellor; you should seek detailed counsel from your own practitioner. If you have any question of a general nature regarding patents, however, you may write to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. If your question relates to commercial promotion of your invention or patent, you may write or get in touch with one of the other offices mentioned in the answers to questions 41, 42 and 44 near the end of this pamphlet.

Marketing and Developing the Invention

Importance of Development Effort

Let us assume now that you have obtained your patent and that you want to know what you may do to profit from it. You were told

at the beginning of this pamphlet that you could not hope to profit unless your invention provided some result or feature having an advantage which would enable you to sell it. It is equally true that you are very unlikely to profit, even after you have received a patent, unless you either use the invention yourself or persuade others to use it by pointing out to them the advantages which it provides. Patents seldom promote themselves. It is unlikely that other people, merely by reading the patent, will recognize the advantages and come to you with an offer to purchase the patent or license rights under it.

Government Assistance

Neither the Patent and Trademark Office nor any other Government agency can help you to the extent of acting as a salesman on your behalf to encourage others to adopt the features of your patent and pay you for their use. However, the Patent and Trademark Office and other Government agencies provide services which may help in your own activities. Services which may be helpful are discussed in the answers to questions 40 to 44 in the question and answer section at the end of this pamphlet.

When May Invention be Revealed?

Many inventors ask when they may safely reveal their inventions to others in their efforts to obtain financial backing or to induce some person or business organization to buy their patent rights. No answer can be given to this question which may be applied to every individual situation; you should seek competent legal advice in regard to your particular problems. However, the following general statements may be helpful.

Precaution After Patent Issuance

After the patent is issued it is safe to reveal to others everything that is actually described or illustrated in the patent. These details are then no longer secret, for they are published in the printed copies of your patent which are available to anyone. A precautionary word should be given, however, in connection with later inventions or improvements which are related to the patent. You should be guided by legal counsel in deciding what to say to a prospective purchaser or licensee.

Added Precaution Before Patent Issuance

If you decide to try to sell the invention or license rights under it while your application is still pending in the Patent and Trademark Office you will need to consider another point. Your patent application serial number and filing date are maintained in confidence by the Patent and Trademark Office, and these and other dates may be important if any question arises as to who is the first inventor. You should avoid revealing this information prematurely or carelessly, and get legal advice on this point in connection with negotiation.

Further Precaution Before Applying for Patent

It is also possible to negotiate with a purchaser for sale of rights in your invention even before you have applied for a patent, but such a procedure involves other problems. Many people submit their inventions to prospective manufacturers, after having them witnessed, without having first applied for patent protection. The inventor may feel that this is the only course available if he has no way of determining whether his invention has merit, or if he is unable to afford the cost of a patent application. If you contemplate taking such a course, you are strongly urged to seek legal advice before doing so.

Answers to Questions Frequently Asked

Meaning of Words "Patent Pending"

1. *Q. What do the terms "patent pending" and "patent applied for" mean?*

   A. They are used by a manufacturer or seller of an article to inform the public that an application for patent on that article is on file in the Patent and Trademark Office. The law imposes a fine on those who use these terms falsely to deceive the public.

Patent Application

2. *Q. I have made some changes and improvements in my invention after my patent application was filed in the Patent and Trademark Office. May I amend my patent application by adding a description or illustration of these features?*

A. No. The law specifically provides that new matter shall not be introduced into the disclosure of a patent application. However, you should call the attention of your practitioner promptly to any such changes you may make or plan to make, so that he may take or recommend any steps that may be necessary for your protection.

3. *Q. How does one apply for a patent?*

A. By making the proper application to the Commissioner of Patents and Trademark, Washington, D.C. 20231.

4. *Q. Of what does a patent application consist?*

A. An application fee, a specification and claims describing and defining the invention, an oath or declaration, and a drawing if the invention can be illustrated.

5. *Q. What are the Patent and Trademark Office fees in connection with filing of an application for patent and issuance of the patent?*

A. A filing fee of $65 plus certain additional charges for claims depending on their number and the manner of their presentation are required when the application is filed. An issue fee of $100 plus certain printing charges is also required if the patent is to be granted. This issue fee is not required until your application is allowed by the Patent and Trademark Office.

6. *Q. Are models required as part of the application?*

A. Only in the most exceptional cases. The Patent and Trademark Office has the power to require that a model be furnished, but rarely exercises it.

7. *Q. Is it necessary to go to the Patent and Trademark Office to transact business concerning patent matters?*

A. No; most business with the Patent and Trademark Office is conducted by correspondence. Interviews regarding pending applications can be arranged with examiners if necessary, however, and are often helpful.

8. *Q. Can the Patent and Trademark Office give advice as to whether an inventor should apply for a patent?*

A. No. It can only consider the patentability of an invention when this question comes regularly before it as a patent application.

9. *Q. Is there any danger that the Patent and Trademark Office will give others information contained in my application while it is pending?*

A. No. All patent applications are maintained in the strictest secrecy until the patent is issued. After the patent is issued, however, the Patent and Trademark Office file containing the application and all correspondence leading up to issuance of the patent is made available in the Patent and Trademark Office Search Room for inspection by anyone, and copies of these files may be purchased from the Patent and Trademark Office.

10. *Q. May I write to the Patent and Trademark Office directly about my application after it is filed?*

A. The Patent and Trademark Office will answer an applicant's inquiries as to the status of the application, and inform him whether his application has been rejected, allowed, or is awaiting action by the Patent and Trademark Office. However, if you you have a practitioner the Patent and Trademark Office cannot correspond with both you and the attorney concerning the merits of your application. All comments concerning your invention should be forwarded through your practitioner.

11. *Q. What happens when two inventors apply separately for a patent for the same invention?*

A. If the effective filing dates are sufficiently close, an "interference" is declared and testimony may be submitted to the Patent and Trademark Office to determine which inventor is entitled to the patent. Your attorney or agent can give you further information if it becomes necessary.

12. *Q. Can a shortened statutory period of 3 months set by the Patent and Trademark Office for response to an office action in a pending application be extended?*

A. Yes, upon written request, but only up to the maximum period of six months, which is fixed by law, and with good reasons for the request. An application will become abandoned unless a complete response is received in the Patent and Trademark Office within the time set.

When To Apply for Patent

13. *Q. I have been making and selling my invention for the past 13 months and have not filed a patent application. Is it too late for me to apply for patent?*

A. Yes. A valid patent may not be obtained if the invention was in public use or on sale in the United States of America for more than one year prior to the filing of your patent application. Your own public use and sale of the invention for more than a year before your application is filed will bar your right to a patent just as effectively as if this use and sale had been done by someone else.

14. *Q. I published an article describing my invention in a magazine 13 months ago. Is it too late to apply for a patent?*

A. Yes. The fact that you are the author of the article would not save your patent application. The law provides that the inventor is not entitled to a patent if the invention has been described in a printed publication anywhere in the world more than a year before his patent application is filed.

Who May Obtain a Patent

15. *Q. Is there any restriction as to persons who may obtain a United States patent?*

A. No, except for Patent and Trademark Office employees, any inventor may obtain a patent regardless of age or sex, by complying with the provisions of the law. A foreign citizen may obtain a patent under exactly the same conditions as a United States citizen.

16. *Q. If two or more persons work together to make an invention, to whom will the patent be granted?*

A. If each had a share in the ideas forming the invention, they are joint inventors and a patent will be issued to them jointly on the basis of a proper patent application filed by them jointly. If on the other hand one of these persons has provided all of the ideas of the invention, and the other has only followed instructions in making it, the person who contributed the ideas is the sole inventor and the patent application and patent should be in his name alone.

17. *Q. If one person furnishes all of the ideas to make an invention and another employs him or furnishes the money for building and testing the invention, should the patent application be filed by them jointly?*

A. No. The application must be signed by the true inventor, and filed in the Patent and Trademark Office, in his name. This is the person who furnishes the ideas, not the employer or the person who furnishes the money.

18. *Q. May a patent be granted if an inventor dies before filing his application?*

A. Yes; the application may be filed by the inventor's executor or administrator.

19. *Q. While in England this summer, I found an article on sale which was very ingenious and has not been introduced into the United States or patented or described in a publication. May I obtain a United States patent on this invention?*

A. No. A United States patent may be obtained only by the true inventor, not by someone who learns of an invention of another.

Ownership and Sale of Patent Rights

20. *Q. May the inventor sell or otherwise transfer his right to his patent or patent application to someone else?*

A. Yes. He may sell all or any part of his interest in the patent application or patent to anyone by a properly worded assignment. The application must be filed in the Patent and Trademark Office as the invention of the true inventor, however, and not as the invention of the person who has purchased the invention from him.

21. *Q. If two persons own a patent jointly, what can they do to grant a license to some third person or company to make, use or sell the invention?*

A. They may grant the license jointly, or either one of them may grant such a license without obtaining the consent of the other. A joint owner does not need the consent of his co-owner either to make, use, or sell the invention of the patent independently, or to grant licenses to others. This is true even though the joint owner who grants the license owns only a very small part of the

patent. Unless you want to grant this power to a person to whom you assign a part interest, you should ask your lawyer to include special language in the assignment to prevent this result.

22. *Q. As joint inventor, I wish to protect myself against the possibility that my co-inventor may, without my approval, license some third party under our joint patent. How can I accomplish this?*

A. Consult your lawyer and ask him to prepare an agreement for execution by you and your co-inventor to protect each of you against this possibility.

Duration of Patents

23. *Q. For how long a term of years is a patent granted?*

A. Seventeen years from the date of issue; except for patents on designs, which are granted for terms of 3½, 7, or 14 years.

24. *Q. May the term of a patent be extended?*

A. Only by special act of Congress, and this occurs very rarely and only in most exceptional circumstances.

25. *Q. Does the patentee continue to have any control over use of the invention after his patent expires?*

A. No. Anyone has the free right to use an invention covered in an expired patent, so long as he does not use features covered in unexpired patents in doing so.

Patent Searching

26. *Q. Where can a search be conducted?*

A. In the Search Room of the Patent and Trademark Office in Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia. Classified and numerically arranged sets of United States and foreign patents are kept there for public use. Numerical files are also kept by 22 libraries scattered throughout the United States. The booklet, "General Information Concerning Patents" contains a list of these libraries.

27. *Q. Will the Patent and Tradework Office make searches for individuals to help them decide whether to file patent applications?*

A. No. But it will assist inventors who come to the Search Room by helping them to find the proper patent classes in which to make their searches. For a reasonable fee it will furnish lists of patents in any class and subclass, and copies of these patents may be purchased for 50 cents each in most instances, although plant patents and unusually large "jumbo" patents cost one dollar.

Attorneys and Agents

28. *Q. Does the Patent and Trademark Office control the fees charged by patent attorneys and agents for their services?*

A. No. This is a matter between you and your patent attorney or agent in which the Patent and Trademark Office takes no part. In order to avoid possible misunderstanding you may wish to ask him for estimates in advance of his approximate charges for: (a) the search, described previously in steps three and four; (b) preparation of the patent application, step five, and (c) Patent and Trademark Office prosecution, step six.

29. *Q. Will the Patent and Trademark Office inform me whether the patent attorney or agent I have selected is reliable or trustworthy?*

A. All patent attorneys and agents registered to practice before the Patent and Trademark Office are expected to be reliable and trustworthy. The Patent and Trademark Office can report only that a particular individual is, or is not, in good standing on the register.

30. *Q. If I am dissatisfied with my patent attorney or agent may I change to another?*

A. Yes. There are forms for appointing attorneys and revoking their powers of attorney in the pamphlet entitled "General Information Concerning Patents." See the list of publications in the front of this pamphlet for price and sources.

31. *Q. Will the Patent and Trademark Office help me to select a patent attorney or agent to make my patent search or to prepare and prosecute my patent application?*

A. No. The Patent and Trademark Office cannot make this choice for you. However, your own friends or general attorney may help you in making a selection from among those listed as

registered practitioners on the Patent and Trademark Office roster. Also, bar associations in some localities operate lawyer referral services that maintain lists of patent lawyers available to accept new clients.

32. *Q. How can I be sure that my patent attorney or agent will not reveal to others the secrets of my invention?*

A. Patent attorneys and agents earn their livelihood by the confidential services they perform for their clients, and if any attorney or agent improperly reveals an invention disclosed to him by a client, that attorney or agent is subject to disbarment from further practice before the Patent and Trademark Office and loss of his livelihood. Persons who withhold information about their inventions from their attorneys and agents make a serious mistake, for the attorney or agent cannot do a fully effective job unless he is fully informed.

Plant and Design Patents

33. *Q. Does the law provide patent protection for invention of new and ornamental designs for articles of manufacture, or for new varieties of plants?*

A. Yes. If you have made an invention in one of these fields, you should read the Patent and Trademark Office pamphlet. "General Information Concerning Patent."

Technical Knowledge Available From Patents

34. *Q. I have not made an invention but have encountered a problem. Can I obtain knowledge through patents of what has been done by others to solve the problem?*

A. The patents in the Patent and Trademark Office Search Room are arranged by subject matter and contain a vast wealth of technical information and suggestions. You may come to the Search Room and review these patents, or engage a patent practitioner to do this for you and send you copies of the patents most closely related to your problem.

Infringement of Others' Patents

35. *Q. If I obtain a patent on my invention will I be protected against the claims of others who assert that I am infringing their patents when I make, use, or sell my own invention?*

A. No. There may be a patent of a more basic nature on which your invention is an improvement. If your invention is a detailed refinement or feature of such a basically protected invention, you may not use it without the consent of the patentee, just as no one will have the right to use your patented improvement without your consent. You should seek competent legal advice before starting to make or sell or use your invention commercially, even if it is protected by a patent granted to you.

Enforcement of Patent Rights

36. *Q. Will the Patent and Trademark Office help me to prosecute others if they infringe the rights granted to me by my patent?*

A. No. The Patent and Trademark Office has no jurisdiction over questions relating to the infringement of patent rights. If your patent is infringed you may sue the infringer in the appropriate United States court at your own expense.

Patent Protection in Foreign Countries

37. *Q. Does a United States patent give protection in foreign countries?*

A. No. The United States patent protects your invention only in this country. If you wish to protect your invention in foreign countries, you must file an application in the patent office of each such country within the time permitted by law. This may be quite expensive, both because of the cost of filing and prosecuting the individual patent applications, and because of the fact that most foreign countries require payment of fees to maintain patents in force. You should inquire of your practitioner about these costs before you decide to file in foreign countries.

National Defense Inventions

38. *Q. I have developed an invention which may be of interest to the Armed Forces or other Government agencies. How shall I bring it to their attention?*

A. If you know the name of the agency that you think might have an interest in your invention submit complete descriptive information to that agency. If you do not know of a specific agency you can send the information to the Office of Innovation and Invention, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C., 20234.

39. *Q. I believe that the publication of a patent on my invention would be detrimental to the national defense. For this reason, I am reluctant to file a patent application unless there is a special method of handling cases of this nature. What should I do?*

A. You need have no qualms about filing an application in the U.S. Patent and Trademark Office. If it is determined that publication of the invention by the granting of a patent would be detrimental to the national defense, the Commissioner of Patents and Trademarks will order that the invention be kept secret and will withhold the grant of a patent until a decision is made that disclosure of the invention is no longer detrimental to the national security. If an order is issued that the invention of your patent application be kept secret, you will be entitled to appy for compensation from the Government, if and when the application is held to be allowable.

Developing and Marketing Inventions and Patents

40. *Q. Will the Patent and Trademark Office advise me as to whether a certain patent promotion organization is reliable and trustworthy?*

A. No. The Patent and Trademark Office has no control over such organizations and does not supply information about them. *It is advisable, however, to check on the reputation of invention promotion firms before making any commitments.* It is suggested that you obtain this information by inquiring of the Better Business Bureau of the city in which the organization is located, or of the bureau of commerce and industry or bureau of consumer affairs of the state in which the organization has its place of business You may also undertake to make sure that you are dealing with reliable people by asking your own patent attorney or agent whether he has knowledge of them, or by inquiry of others who may know them.

41. *Q. Are there any organizations in my area which can tell me how and where I may be able to obtain assistance in developing and marketing my invention?*

A. Yes. In your own or neighboring communities you may inquire of such organizations as chambers of commerce, banks and area departments of power companies and railroads. Many communities have locally financed industrial development organizations which can help you locate manufacturers and individuals

who might be interested in promoting your idea. You can also obtain assistance from one of the district offices of the U.S. Department of Commerce or of the Small Business Administration located near you. The addresses of these offices are listed in your local telephone directory.

42. *Q. Are there any state government agencies that can help me in developing and marketing of my invention?*

A. Yes. In nearly all states there are state planning and development agencies or departments of commerce and industry which seek new product and new process ideas to assist manufacturers and communities in the state. If you do not know the names or addresses of your state organizations you can obtain this information by writing to the governor of your state.

43. *Q. Can the Patent and Trademark Office assist me in the developing and marketing of my patent?*

A. Only to a very limited extent. The Patent and Trademark Office cannot act or advise concerning the business transactions or arrangements that are involved in the development and marketing of an invention. However, the Patent and Trademark Office will publish, at the request of a patent owner, a notice in the "Official Gazette" that the patent is available for licensing or sale. The fee for this service is $3.

44. *Q. Can any U.S. Government agency other than the Patent and Trademark Office assist me in the development and marketing of my invention?*

A. The Small Business Administration may be able to help you, or one of the district offices of the U.S. Department of Commerce field offices. SBA has over 60 offices in various cities in the United States, and it offers through its products assistance program information and counsel to small concerns who are interested in new products. You may wish to get in touch with one of these offices of the Small Business Administration. The addresses of the field offices of the U.S. Department of Commerce and of the Small Business Administration are listed in your local telephone directory.

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